

NOTICE OF AVAILABILITY TO LEASE

Lease Application

DACA63-9-04-0517

January 15, 2004

Revised April 7, 2004

WILLIAM BEAUMONT GENERAL HOSPITAL HISTORIC DISTRICT
Lease Application

NOTICE OF AVAILABILITY TO LEASE AT FORT BLISS, TEXAS

THE ARMY IS SEEKING A PRIVATE DEVELOPER TO PARTICIPATE IN DEVELOPMENT THAT WILL RESTORE, PRESERVE, AND MAINTAIN SIGNIFICANT HISTORIC PROPERTIES FOR PRIVATE USE AT THE WILLIAM BEAUMONT GENERAL HOSPITAL HISTORIC DISTRICT (WBGHHD) AT FORT BLISS, TEXAS, THROUGH LEASING OPPORTUNITIES. THE SELECTED DEVELOPER WILL WORK WITH THE ARMY TO DEVELOP A BUSINESS PLAN THAT WILL BE IMPLEMENTED IN WHOLE OR IN PART THROUGH LEASING ARRANGEMENTS.

Historic Fort Bliss, Texas serves as the home for the U.S. Army Air Defense Artillery Center. It also hosts the Army's Sergeants Major Academy. The post consists of 1.1 million acres of land stretching across the far western tip of Texas and north into New Mexico. The headquarters and cantonment are located in El Paso, as is the William Beaumont General Hospital Historic District (WBGHHD) site.

The WBGHHD area is situated to the northwest of the Fort Bliss main cantonment area between Fred Wilson Boulevard and Hayes Avenue in El Paso, Texas. The northern and southern boundaries of WBGHHD are adjacent to privately owned residential and commercial properties. Recently constructed Army Family Housing, the Armed Services YMCA, and Dyer Street are to the east. Directly west of the WBGHHD are the William Beaumont Army Medical Center, more Army Family Housing, Alabama Avenue, and the Franklin Mountains. The entire site is separated from the main cantonment area of Fort Bliss. Once fences and security gates are relocated, the public can be provided unlimited access to the site without passing through Fort Bliss security.

This 92.75 acre area contains 39 historic structures that are currently under-utilized by Fort Bliss. Since the buildings and structures in WBGHHD are no longer required for their primary purpose (which was to support hospital facilities on the installation), some have deteriorated to the point that they now pose a health and safety hazard. In 1999, Fort Bliss reached a Memorandum of Agreement (MOA), with the Texas State Historic Preservation Office (SHPO) concerning these properties. The MOA allowed Fort Bliss to demolish 7 buildings in the WBGHHD. These 7 buildings constituted a health and safety hazard and were demolished shortly after the MOA was signed by all the parties. The MOA further provided that Fort Bliss must retain 9 structures considered to be historically noteworthy and to implement a plan for their rehabilitation and maintenance. An additional 17 structures within WBGHHD were deemed appropriate under the MOA for demolition, with the stipulations that Fort Bliss implement the rehabilitation of the 9 noteworthy structures, complete a landscape survey and management plan and survey for archaeology in the areas impacted by demolition¹. Fort Bliss subsequently completed the landscape survey and management plan and survey for archaeology and, because of health and safety concerns, demolished six of these structures that were approved for demolition. The MOA

¹ The landscape survey and management plan and the survey for archaeology have been completed. Copies of the surveys and plan may be viewed at the Directorate of Environment, Building 624, Ft Bliss, Texas.

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also approved the layaway of an additional 18 buildings, with their status undetermined². It is the Army's intent in this Enhanced Use Leasing process to leave open the future disposition of any of the remaining buildings or structures in the WBGHHD. That is, the future disposition of the remaining buildings or structures in the WBGHHD will be subject to a negotiation between the SHPO, the Advisory Council, the Army, and the selected Developer/lessee.

More specific sites descriptions will be determined during the planning and leasing process. Additional detail is included in the Application Package, which can be obtained from the U.S. Army Corps of Engineers or found at the Department of Army's Office of Historic Properties web-site at: <https://www.asaie.army.mil/Public/Partnerships/OHP/ohp.htm>

The goal of this project is to find alternative uses and preserve historic properties to the greatest extent feasible in accordance with Sections 110 and 111 of the National Historic Preservation Act, as amended (16 U.S.C. 470h-2 and 470h-3). This will provide for good stewardship of the historic and other real property located on the installation and to the extent possible, defray installation-operating costs

Following selection of the Developer, the Army and the Developer will work together to produce a Business and Leasing Plan (Plan) for the former WBGHHD, Fort Bliss, Texas. The Army will issue a conditional Notice of Lease award to the Developer. The selected Developer should be thorough, creative, and professional in identifying issues, analyzing solutions and in determining entrepreneurial processes to ensure the successful implementation of the project. The Plan will include financing strategies for the proposed leasing arrangements and development of the leased property. Upon completion of the Plan and subject to final approval by the Army, a lease or leases will be executed to implement the Plan, or portions thereof. In no event will the Army be responsible for the payment of any fees or have any liability to the Developer for the Plan or work products generated in developing the Plan.

The goals of the project are to provide restoration, preservation, renovation, development, maintenance and management of significant historic properties; to provide adaptive reuse of the historic property in accordance with Section 110 and 111 of the National Historic Preservation Act; to provide good stewardship of the property; to allow Fort Bliss to utilize cash or in-kind consideration generated by the project to further enhance the quality of life for those working at and served by the installation; and to employ the best commercial practices to the benefit of both the Army and Developer.

In addition, the Army and Fort Bliss have set the following objectives for this project:

- a. To find uses for the former WBHHD facilities that are compatible with the mission and requirements of Fort Bliss.
- b. To maintain positive relations with the communities surrounding the property.

² The MOA with the SHPO included only 36 of the 39 structures that comprise the former WBGHHD. The MOA did not discuss the disposition of building number 7115 (the Neuropsychiatry Ward), facility number 7181 (the transformer vault) or facility number 7161 (the tennis courts).

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- c. To successfully integrate development activities with cultural resources and environmental policy management requirements in support of the mission of Fort Bliss.
- d. To employ best commercial practices to the benefit of both the Army and the Developer.

NOTE: The evaluation of applications will be based on the following criteria (More detailed submission requirements are set forth in the Application Package.):

CAPABILITY/QUALIFICATIONS. This factor considers the extent of the applicant's corporate and key personnel capability and qualification to provide the services required for planning and implementation of the project as well as the applicant's approach to the project.

RELEVANT EXPERIENCE INCLUDING PAST AND PRESENT PERFORMANCE. This factor considers the extent of the applicant's corporate and key personnel experience in successfully planning for and developing large complex projects, especially under a lease arrangement.

FINANCIAL. This factor considers the extent of the applicant's experience in dealing with financing of large, complex real estate projects, especially under a leasing arrangement. Additionally, the applicant's financial return expectations will be considered as well as the Developer's strategy to secure financing.

PROPERTY MAINTENANCE/MANAGEMENT. This factor considers the ability and experience in properly managing and maintaining similar projects over an extended period of time. This feature is critical to the development's long-term viability.

DEVELOPMENT PLAN. This factor considers whether the applicant has a clear understanding of the anticipated design, renovation, and construction elements of the project.

EXPERIENCE WITH HISTORIC PROPERTIES. This factor considers the applicant's training and demonstrated experience with the redevelopment, rehabilitation and/or adaptive reuse of historic properties and execution of the Secretary of the Interior's Standards for the Treatment of Historic Properties.

ACHIEVEMENT OF ARMY GOALS. This factor considers the extent to which the applicant's approach indicates an understanding of the Army's goals and a realistic approach to accomplishing them.

EXPERIENCE IN COMMUNITY RELATIONS. This factor considers the extent of the applicant's experience in dealing with community relations in other successfully completed developments.

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Applications must be submitted and received by Monday, **June 7, 2004**, 3:00pm (CDT), in sealed envelopes or packages, to:

Commander, U.S. Army Corps of Engineers
Fort Worth District
Attention: CESWF-RE-MD (June Ahrens)
P.O. Box 17300
Fort Worth, Texas 76102-0300

Mark the Lower left corner of envelope:

Sealed Application for Lease of Real

Property - To be opened:

Time: 3:00 p.m. (CDT)

Date: **June 7, 2004**

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**APPLICATION PACKAGE FOR LEASE OF CERTAIN
FACILITIES AT FORT BLISS, EL PASO, TEXAS**

SECTION 1.0 – EXECUTIVE SUMMARY

1.1 AUTHORITY. The Enhanced Used Leasing (“EUL”) process is authorized under Title 10, United States Code, Section 2667. This authority allows military installations to out-lease land and facilities to a private or public entity. Specifically, installations can, among other things: 1) out-lease for other types of mission functions; 2) enter into long-term or short-term leases, providing greater flexibility for facility reuse; and 3) receive no less than fair market rental, in cash or in-kind, as consideration for the leased property.

1.2 PURPOSE. The Army is seeking a developer/lessee (hereinafter “Developer”) to participate in the adaptive re-use and development of available historic real estate assets at the William Beaumont General Hospital Historic District (WBGHHD) located in Fort Bliss, Texas. The entire area to be out-leased at WBGHHD consists of approximately 92.75 acres of land. A Map of the area is included as Exhibit A.

The facilities being considered for this leasing initiative are contained in the following table:

William Beaumont Hospital Historic District Buildings and Structures – Table 1

Bldg No.	Original Use	Year Built	Area (SF)	Current Use	Status per MOA*
7000	Post Headquarters	1943	12,112	GP Administration	Undetermined
7113	Red Cross Building	1945	11,807	Child Dev Center	Cleared for Demolition
7115	Neuropsychiatry Ward	1942	34,072	Med Ctr/Hosp	N/A
7122	Bandstand	1925	1 ea	Rec Shelter	To be Retained
7124	Food Service	1942	9,564	Med Ctr/Hosp	Cleared for Demolition
7125	Receiving Building	1921,40	9,487	GP Administration	Undetermined
7133	Medical Supply Warehouse	1933	11,290	Storage GP Inst	Undetermined
7136	Medical Warehouse	1921,40	11,755	Vet Facility	Cleared for Demolition
7137	Guard House	1923,40	1,332	GP Administration	Undetermined
7139	Garage, Shop	1921,40	5,996	Storage GP Inst	Cleared for Demolition
7151	Post Chapel	1943	3,415	GP Administration	To be Retained
7152	Theater	1942	4,702	GP Auditorium	To be Retained
7153	Recreation Building	1943	11,924	Bowling Center	Cleared for Demolition
7154	Handball Courts	1941	1 ea	Active Sports	Cleared for Demolition
7155	Gymnasium	1925	7,333	Active Sports	To be Retained
7157	Med Detachment Barracks	1921,40	6,945	Mob Barracks	To be Retained

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Bldg No.	Original Use	Year Built	Area (SF)	Current Use	Status per MOA*
7158	Medal Detachment Barracks	1921,40	6,993	Mob Barracks	To be Retained
7159	Med Detachment Barracks	1921	6,622	Mob Barracks	To be Retained
7161	Tennis Courts	1938,40	1 ea	Active Sports	Cleared for Demolition
7162	Post Exch Annex & Whse	1922	3,956	Skill Dev	Cleared for Demolition
7166	Library (reno as qtrs for 2)	1922,40	3,240	Co HQ Bldg	To be Retained
7167	Mess & Kitchen (reno as convention hall)	1921,40	4,389	Co HQ Bldg	To be Retained
7175	Utility Shop	1942	3,938	GP Administration	Cleared for Demolition
7177	Medical Repair Shop	1942	2,434	Eng/Housing Mnt	Cleared for Demolition
7178	NCO Garage & Utility Warehouse	1937,40	2,243	Storage GP Inst	Undetermined
7180	4-Car Garage	1937,40	861	Garage FH Det	Undetermined
7181	Transformer Vault	1936,40	90	Substation	Undetermined
7183	NCO Quarters	1923,40	1,065	FH Jr NCO	Undetermined
7184	NCO Quarters	1923	1,065	FH Jr NCO	Undetermined
7185	NCO Quarters	1923,40	1,065	FH Jr NCO	Undetermined
7186	NCO Quarters	1921,40	1,652	FH Jr NCO	Undetermined
7187	NCO Quarters	1922,40	1,065	FH Jr NCO	Undetermined
7188	NCO Quarters	1922,40	1,065	FH Jr NCO	Undetermined
7189	NCO Quarters	1922,40	1,065	FH Jr NCO	Undetermined
7190	NCO Quarters	1925,40	1,065	FH Jr NCO	Undetermined
7191	NCO Quarters	1925,40	1,065	FH Jr NCO	Undetermined
7192	NCO Quarters	1925,40	1,065	FH Jr NCO	Undetermined
7193	4-Car Garage	1937,40	861	Garage FH Det	Undetermined
7194	NCO Quarters	1933,40	2,125	FH Jr NCO	Undetermined

NCO- Non-Commissioned Officer

FH- Family Housing

GP- General Purpose

MOB- Mobilization

*Note: MOA and REC allows reconsideration of status through EUL developer proposals.

1.3 BUILDING CONDITION ASSESSMENT. At the request of Fort Bliss, the Construction Engineering Research Laboratory (CERL) Champaign, Illinois conducted a condition assessment of the buildings in the William Beaumont General Hospital Historic District (WBGHHD). The focus of the assessment was the overall structural integrity of the buildings. Therefore, emphasis was placed on structural systems, exterior envelope components and major interior construction systems. Given the fact that major mechanical and electrical systems would be replaced or upgraded to meet current codes, these systems were not examined in detail

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Cost estimates were derived using the United States Army Environmental Center, *Layaway Economic Analysis Program*. Costs are for repair and/or rehabilitation of the existing structures to return them to a safe and usable condition. No attempt was made to estimate costs for adaptive reuse of the buildings. The total estimated repair/renovation cost to return the nine historically noteworthy structures to a safe and usable condition is \$1,522,857.

1.4 BUSINESS PLAN. Upon selection of a Developer, the Army and the Developer will work together to develop a Business and Leasing Plan (hereinafter “Plan”) for the leasing and development of the facilities and areas on WBGHHD. The selected Developer(s) will be issued a conditional notice of Lease award by the Army. The Developer(s) selected will be expected to thoroughly, creatively, and professionally identify issues, analyze solutions, and determine entrepreneurial processes to ensure the successful implementation of the project. The goal of this project is to find alternative uses and preserve historic properties to the greatest extent feasible in accordance with Sections 110 and 111 of the National Historic Preservation Act and to provide good stewardship of the historic real property located on the installation and to the extent possible, defray installation operating costs.

The Plan will include financing strategies for the proposed leasing arrangements and development of the leased property at WBGHHD. Upon completion of the Plan and final approval by the Army, a lease or leases will be negotiated by the parties to implement the Plan, or portions thereof. The decision to implement the Plan will be made by the Army at its discretion. If potential development opportunities are identified during the planning process that cannot be accommodated under the leasing authority, the Developer and Fort Bliss will, if feasible, discuss implementation through alternative authorities.

In no event will the Army be responsible for the payment of any fees or have any liability to the Developer for the Plan or work products generated in developing the Plan.

1.5 PROJECT GOALS. The Army has set the following goals for this project:

- a. To find uses for WBGHHD assets that is compatible with the requirements and mission of Fort Bliss, Texas.
- b. To maintain positive relations with the communities surrounding the property.
- c. To successfully integrate development activities with cultural resources and environmental policy management requirements in support of the mission of Fort Bliss, Texas.
- d. To employ the best commercial practices to the benefit of both the Army and the Developer.

The Army believes these goals can best be achieved by working with the Developer to develop the Business and Leasing Plan described below for the WBGHHD properties. The valuable assets and open spaces of the WBGHHD, coupled with the local progressive-minded business community, make this initiative a ready-made opportunity for a world-class Developer to lead the way in national, military base reinvention.

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2. SECTION 2. THE LEASING PROCESS

2.1 SUMMARY OF THE LEASING PROCESS. Upon selection of the Developer, the Army and the Developer will work cooperatively to jointly develop a Plan, which will be implemented through a lease or leases for selected real estate assets. In developing the Plan, the Army and the Developer will consult stakeholders within the community, as appropriate. During the Plan development, the leased property and proposed uses will be identified. The Army and the Developer will negotiate a lease and other documents required to implement the Plan.

An initial, “sample outline” for contents of the Plan is as follows:

- a. A further description of the Army’s goals for the leasing arrangement and methods for meeting the goals;
- b. Analysis and plan to determine sources of capital;
- c. Overall leasing and development schedule;
- d. Preliminary leasing and development budget;
- e. A development strategy for all efforts of the leasing arrangement including a more detailed description of the Developer’s role in the project, a description of any anticipated partnership or joint ventures by the Developer, a Plan that will reflect the specifics of the strategy, timelines, and site plans for proposed projects;
- f. A subleasing plan setting forth appropriate guidelines to ensure that all subleases are for uses compatible with Fort Bliss's military missions;
- g. A treatment plan to ensure adequate preservation and maintenance of historic property;
- h. Documents required to comply with the National Environment Policy Act, National Historical Preservation Act and other applicable laws;
- i. Community relations plan;
- j. Financing plan; and
- k. A detailed description of any opportunities identified during the planning process that cannot be accommodated by the current lease authority, and, if feasible, a plan for proceeding under an alternative authority.

During the development of the Plan, the Army will provide non-monetary support (*e.g.*, office space and technical/management support) to the Developer, as negotiated.

The Developer and the Army will prepare draft portions of the Plan for review during the planning stage. The Army will work with the Developer to arrange for review of the drafts by the various constituencies with an interest in the project, both within and outside the government. Coordination with the State Historic Preservation Office (SHPO) will take place at this stage to ensure that the intended development satisfies historic preservation concerns. At the end of the planning stage, the Plan and supporting documents will be submitted to Headquarters, Department of the Army (HQDA) for approval. If approved, the Army will execute lease arrangements and proceed with the project.

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In the unlikely event that the Army and the Developer cannot agree on a Plan, implementing lease or other required documents, or if the Plan is not accepted by HQDA, the Army, at its option may render this application process null and void, direct the Developer to cease all work on the project, and cancel the conditional lease award, all without giving rise to any right or claim by the Developer. Should this occur, the Army maintains the right, at no cost, to make full use of the Plan and to proceed to negotiate and work with other developers on this or similar projects.

2.2 UTILITIES AND OTHER SUPPORT SERVICES. The Lease or Leases will provide for the payment of utility and support services as agreed to by the Developer and Fort Bliss.

2.3 DISPUTES. Any dispute concerning a question of fact or procedure arising under this application which is not disposed of by agreement shall be decided by the Army, who shall mail or otherwise furnish a written copy of the decision to the applicant.

3.0 APPLICATION SUBMISSION

3.1 PROVISIONS. Developers are required to comply with the following instructions while developing their proposal. Where instructions conflict and the order of precedence are not specified, the most stringent requirement applies. A reference to, or direction to comply with a particular paragraph shall include, as appropriate, all sub-paragraphs there under. Oral explanations or instructions given before the signing of the Lease will not be binding. Any written information concerning the application given to any prospective Developer will be furnished promptly to all other prospective Developers. If the information is necessary in submitting applications or if the lack of it would be prejudicial to any other prospective Developer, the information will be furnished as an amendment to the application. By submitting an application, you agree to provide non-discrimination and Civil Rights assurances if applicable. Additional provisions the Developer should note include:

- a. The information provided by you may be used by the Army to conduct a comprehensive background and credit check.
- b. You may provide the facilities and services to the Army as agreed upon in the Plan and Lease either directly or through subleases or concession agreements that have been reviewed and accepted by the Army.
- c. The Army reserves the right, as the interest of the Army may require, to reject at any time any and all applications, to select more than one applicant, to waive any informality in applications received, and to accept or reject any items of any applications unless such application is qualified by specific limitation.
- d. You may joint venture with another Developer. A joint venture (team arrangement) shall meet the following requirements:
 - All applications submitted by joint ventures must include a copy of the executed joint venture agreement.
 - Parties to the joint venture must sign the proposed Lease or Leases, as agreed to in the Plan. In the case of corporations that are joint venture entities, the corporation secretary must certify that the corporation is

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authorized to participate in the joint venture, by so certifying in the joint venture agreement and by submitting a separate certification to the Army prior to lease award. The joint venture must also provide a certificate that identifies a single point of contact, *i.e.*, a principal representative (by name) of the joint venture for purposes of resolution of lease matters and payment issues.

3.2 CANCELLATION OF AVAILABILITY BY THE GOVERNMENT. While the Government intends to enter into a lease with the Developer, it is under no obligation to do so, and reserves the right to cancel this availability and reject all application submissions. The Government reserves the right to suspend or modify all aspects of this process and to waive informalities and minor irregularities in offers received where it is in the best interest of the Government to do so.

3.3 HOLD HARMLESS. By participating in the application process, Developers agree to hold the United States, its officers, employees, and advisors harmless from all claims, liabilities, and costs related to all aspects of this application. Under no circumstances shall the Government be liable for any real estate brokerage commissions, finder's fees, or other forms of compensation related in any way to activities undertaken by any person as a result of the submission of the NOL proposal.

3.4 AMENDMENTS TO APPLICATION PACKAGE. This application package may be amended by formal amendment document, letter, or facsimile. If this application is amended, then all terms and conditions, which are not modified, remain unchanged. Developers shall acknowledge receipt of any amendments to this application by the date and time specified in the amendment(s). Acknowledgment shall be made by signing and returning the amendment(s), or sending a letter or telegraphic acknowledgment.

3.5 INDUSTRY FORUM NOTICE TO APPLICANTS. The Army will conduct an industry forum at the Radisson Hotel, near the El Paso Airport on: *April 1, 2004*, beginning at 8:00 a.m. **For inquiries call Mr. Bill Tipton, Fort Bliss Real Property Office at (915) 568-3399).** The Army's approach to this transaction will be discussed in detail at this forum.

3.6 NOTICE OF ORAL PRESENTATIONS. Developers should note that they will be required to present their proposals orally to the Army evaluation panel and its advisors. The time and date for this presentation will be scheduled individually with the Developer after the written proposal has been submitted and evaluated.

3.7 SUBMISSION OF APPLICATIONS. Offeror applications are due **(Monday, June 7, 2004, at 3:00pm (CDT), Bid Opening will commence at 3:05pm).** Submit an original and five copies of your written proposal to the Army at the following address:

Commander, U.S. Army Corps of Engineers
Fort Worth District
Attention: CESWF-RE-MD (June Ahrens)

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P.O. Box 17300
Fort Worth, Texas 76102-0300

If being mailed by FedEx: 819 Taylor St., Rm. 2B03, (817) 886-1106

Each application shall be enclosed in a sealed envelope. Mark the information you regard as proprietary and not releasable to the public as proprietary. In addition, the sealed envelopes or packages should be labeled with the Developer's name, address, contact person and time specified for receipt. **Electronic, telegraphic, or facsimile offers and modifications will not be considered**.

3.8 SUBMITTAL ORGANIZATION. The Developers' proposals shall consist of a single original document and five copies with the clearly labeled sections. The sections constitute the factors that will be evaluated and are listed in order of evaluation importance excluding Section I, which will not be evaluated.

Application Submittal			
Section	Description of Factor	Number of Submittals	Page Limit ¹
I	Executive Summary	One original, eight copies and one electronic copy ²	5 pages
II	Capability/Qualifications	One original, eight copies and one electronic copy ²	10 pages
III	Relevant Experience/Past and Present Performance	One original, eight copies and one electronic copy ²	10 pages
IV	Financial	One original, eight copies and one electronic copy ²	15 pages
V	Property Maintenance/Management	One original, eight copies and one electronic copy ²	10 pages
VI	Development Plan.	One original, eight copies and one electronic copy ²	10 pages
VII	Experience with Historic Properties	One original, eight copies and one electronic copy ²	5 pages
VIII	Achievement of Army Goals. Objectives and Concepts.	One original, eight copies and one electronic copy ²	5 pages
IX	Experience in Community Relations.	One original, eight copies and one electronic copy ²	5 pages
	TOTAL		75 pages

NOTES:

1. Any pages exceeding the limits set above will not be evaluated. Supporting data such as mandatory forms, resumes, financial statements, pro formas, cost estimates, engineering calculations, photos, drawings and catalog cuts do not count against the page limits indicated above.
2. All sections should be submitted on the same disk/CD ROM. MS Word Format should be used.

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Developers should mark all information that is proprietary and not releasable to the public as proprietary.

3.9 REQUIRED FACTOR SUBMISSION INFORMATION. Each section in your submission must include a description of your approach to the following factors. These factors comprise the minimum compliance with the Army's goals and must be submitted in order for applications to be considered complete. The Army will evaluate and select the successful applicant(s) based upon an overall best value determination.

3.9.1 SECTION I – EXECUTIVE SUMMARY

- a. The name, address, telephone, e-mail, and fax numbers of each principal, partner, and/or co-venturer participating on your team and the name of the representative authorized to act on behalf of the team.
- b. Identification of any affiliation or other relationship between any of the members of the team responding to this application and any development company, parent company, or subsidiary.
- c. A description of your status (whether a corporation, a nonprofit or charitable institution, a partnership, a limited liability company, a business association, or a joint venture) indicating jurisdiction under whose law you are organized and operating, and a brief history of your organization and its principals.
- d. Date and location of establishment and the date of incorporation under the present name.
- e. Explanation of types of services your firm provides and how they relate to this application.
- f. Whether you (or team member) have ever been terminated for default, non-compliance, or non-performance on a contract or Lease. Provide a detailed description; and whether you (or team member), have been within the past five (5) years, in litigation, arbitration, or have had any judgments against you (or team member). Provide a detailed description.
- g. Indication of whether you ever maintained or currently maintain errors and omissions insurance and, if so, the amount of the coverage, deductible, and the carrier of the insurance.
- h. If your firm is a corporation, provide the following: 1) Articles of Incorporation and by-laws; 2) Names, addresses, dates of birth, and Social Security numbers of officers and participating principals; 3) Corporate resolution authorizing the proposed transaction; and 4) Summary of Corporate Activity.

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- i. If your firm is a partnership/joint venture, provide the following: 1) partnership/joint venture agreement; 2) Names, addresses, dates of birth, and Social Security numbers of the partners and 3) each principal member's appropriate history and background, assigned areas of responsibility, and any legally enforceable agreements or other mechanisms that will be relied on to ensure the firm's successful long-term operation.
- j. If you are a sole proprietorship, provide Social Security number, date of birth, current address.

3.9.2 SECTION II – CAPABILITY/QUALIFICATIONS.

3.9.2.1 STAFFING PLAN. Please provide the following:

- a. Describe your organizational approach to executing your responsibilities, providing the overall project coordination, and responding to the Army during all phases of the project. Include an organizational chart and staffing plan that demonstrates your capability of carrying out all functions required for this project. If applicable, present a timetable for hiring any additional staff.
- b. For each year from 1994 to the present, summarize your workload, expressed in terms of the annualized dollar value of the projects being developed and the number of full-time staff engaged in managing project development.
- c. Discuss the extent to which you are planning to commit staff and other resources to the project and development of the Business and Leasing Plan.

3.9.2.2 QUALIFICATIONS OF KEY PERSONNEL. Please provide the following:

- a. Identify your key personnel and their respective roles during development of the Plan. Key personnel are those persons considered critical to the accomplishment of the required services. Indicate the extent to which your key personnel have worked together as a team on projects of this financial magnitude or greater.
- b. Provide a resume for each of your key personnel. Key personnel are those who are considered critical to the accomplishment of the Plan. Resumes, which are limited to one-page, must include a description of the individual's duties and responsibilities, education, knowledge, skills, expertise, and other qualifications relevant to development of the Plan.
- c. Attach a statement to the resume for each of your key personnel defining the extent of their availability and corporate commitment. The resume for each person must clearly indicate whether the person is or is not currently your

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employee and, if not so employed, what kind of commitment or offer of employment your firm has been made to assure availability of this person during the development of the Plan.

3.9.2.3 PROJECT APPROACH. Describe your approach to creating the Plan, implementing the Plan, and achieving the goals the Army has set out for this leasing arrangement. Place special emphasis on how your approach addresses the entire project and how it demonstrates a clear understanding of the scope and complexity associated with the project. Your description should include a discussion of planned steps to ensure maximum preservation of the historic building features and to minimize adverse impact to the character of the buildings and those in the surrounding historical area. This discussion should include contract management practices that will ensure execution of the plan as designed. The Army is seeking a developer that will bring creativity and innovation to this project.

3.9.3 SECTION III - RELEVANT EXPERIENCE/ PAST AND PRESENT PERFORMANCE.

3.9.3.1 RELEVANT PROJECT EXPERIENCE. Provide the following information on projects for which you (or team member) acted as prime developer. Identified projects must demonstrate an ability to perform a project of this magnitude.

- a. List of the major projects that you successfully completed or you have currently in progress covering the past ten (10) years. In the case of joint ventures, any principal member's project's over the past ten (10) years.
- b. For each project listed above please provide the following:
 1. The name, address, type, cost (design and construction), and size (in gross square feet) of each project;
 2. The name and address of the owner of each project;
 3. No more than three (3) photos of each project (each photo not exceeding 8-1/2" by 11" in size);
 4. A description of how the project achieved an acceptable level of quality in the project planning, creation, design, and construction;
 5. The transactional structure for each project;
 6. Your role and services provided for each project;
 7. The name, address, telephone e-mail, and fax numbers of a point of contact at the client or other stakeholder for each project (This individual must

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be familiar with the project and the role of the applicant played in the project and will be able to respond to the Army inquiries); and,

8. Any other pertinent information to sufficiently describe each project.

3.9.3.2 PAST AND PRESENT PERFORMANCE. Provide the name, address, telephone and fax numbers of at least four (4) clients or other stakeholders for whom you (or each team member) have successfully developed projects within the past ten (10) years. In addition to clients, you are encouraged to provide the above information from other project stakeholders that you consider important to understanding the success of your work. These references should be able to assess the degree of client (or other stakeholder) satisfaction. The Army intends to contact all the references you list and your inclusion of the information requested above will be considered authorization to do so. Some of the factors that contribute to client satisfaction and what your references may be asked to discuss in respect to you formally are as follows:

- a. Quality of the working relationship with the client (the tenant and/or owner)
- b. Professionalism and integrity with which you conducted business
- c. Responsiveness to the client's needs and expectations
- d. Level of communication
- e. Value added to the project as the result of cost savings, favorable financing, positive asset management, etc.
- f. Delivery of the project within budget and on schedule
- g. Quality control of the project design and construction
- h. Other relevant aspects in the management of a project development for a client
- i. List all material instances of litigation or formal Alternative Dispute Resolution (ADR) processes (e.g., binding arbitration) during the last ten (10) years and involving a claim in excess of \$50,000 to which each principal member has been a party relating to partnering and/or financial performance. For those matters involving a claim equal to or in excess of \$500,000, provide a detailed description of the litigation or ADR process.

3.9.4 SECTION IV – FINANCIAL. (Note: All financial data clearly marked as proprietary will be held in confidence)

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- a. If you are a corporation or limited partnership, provide a current audited, financial statement prepared by an independent Certified Public Accountant or by an independent licensed public accountant for the last three (3) years. For all partnerships, include a personal financial statement of the key owners/principals.
- b. If you are an individual or partnership, provide a complete and current personal financial statement for you and all partners (i.e., 10Ks for the last three (3) years).
- c. Describe financing arrangements you have structured for major projects within the past ten (10) years that are similar in scope to the Fort Bliss WBGHHD project. Include information on debt sources and terms, fees and any participation in the equity or success of the development. Address how project risk entered into the determination of consideration. Describe your financial commitment over the life of the project during both the construction and permanent financing phases.
- d. Provide the names, addresses, telephone numbers, and e-mail of at least two commercial or institutional credit references from which you have previously obtained financing. Attach a letter authorizing each credit reference to respond to inquiries from the Army.
- e. Provide information concerning any previous transactions you have undertaken for which you have provided a financial return to the owner in return for the use of the owner's assets. This should include information on rental or fees paid to owners through owner participation in the equity or success of the development. You should address how project risk entered into your determination of financial return.
- f. Discuss your financial return expectations for the WBGHHD project. Identify the sources, and, if possible, the relative amounts from these sources, from which you expect to derive revenue during implementation and operation of the WBGHHD project, describe your plan for reinvesting revenues earned back to the project itself. This should include anticipated timing and levels of refinancing and the proposed disposition of proceeds from refinancing as well as plans for adjusting the reinvestment approach in response to market standards. In addition, the Developer should seek to address the anticipated relationship, if any, between the firm's expected financial return and its approach for ensuring that service and maintenance standards are met over the life of the project.
- g. Description and/or documentation demonstrating the Developer's strategy to obtain financing for this project including anticipated costs and why this strategy offers the best value to the government.

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3.9.5 SECTION V - PROPERTY MAINTENANCE/MANAGEMENT. This factor considers the applicant's capability to understand and address the project's property maintenance/management responsibilities including maintenance, repair, operations and management experience. Specifically, the Developer should provide their approach to maintenance/management of the project as well as describe previous comparable projects where they have performed similar functions. In addition, the Developer should include detailed information (i.e. resume) on personnel that will be involved in the WBGHHD project.

3.9.6 SECTION VI – DEVELOPMENT PLAN. This factor will be used to evaluate and demonstrate that the applicant has a clear understanding of the anticipated design, renovation, and construction elements of the project. Specifically, the applicant shall submit a detailed narrative describing the applicant's proposed project concept and vision, including an accurate overall description of the intended project design and construction methodology. Such project concept shall include, but is not limited to, the following items:

- 1) quality control plan;
- 2) safety plan;
- 3) phasing/sequencing including detailed logic diagram with major milestones (i.e. notice to proceed, design completion, obtaining the building permit, subcontractor selection, certificate of occupancy);
- 4) discuss your anticipated sequencing of redevelopment of existing historical properties relative to the whole project;
- 5) project coordination (A&E involvement);
- 6) historic preservation plan.

3.9.7 SECTION VII – EXPERIENCE WITH HISTORIC PROPERTIES. This factor considers the applicant's training and demonstrated experience with the redevelopment, rehabilitation and/or adaptive reuse of historic properties and execution of the Secretary of the Interior's Standards for the Treatment of Historic Properties. Specifically, the Developer should include detailed information on the execution of projects involving historic buildings, including adherence to the Secretary of the Interior's Standards for the Treatment of Historic Properties and actions taken to comply with historic preservation zoning requirements. If historic preservation tax credits are planned for this project, please discuss past experience with tax credits.

3.9.8 SECTION VIII – ACHIEVEMENT OF ARMY GOALS, CONCEPTS AND OBJECTIVES. Describe how the applicant's approach indicates an understanding of the Army's goals and a realistic approach to accomplishing them. Specifically, Developer's should describe how this approach and how the goals of the Army will be achieved during

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the project term.

3.9.9 SECTION IX – EXPERIENCE IN COMMUNITY RELATIONS. Explain your philosophy and specific approach to managing community relations. With respect to projects you listed under “Relevant Project Experience,” describe your experiences in managing relations with the community surrounding those projects(s).

SECTION 4. EVALUATION AND SELECTION PROCESS

4.1 APPLICATION EVALUATION PROCESS. An evaluation team will evaluate each application. The team will determine the overall value of the application to the Army and the potential for meeting the goals of the leasing arrangement, in accordance with the evaluation factors previously stated. Therefore, the application should contain all information that the Developer deems is needed by the Army to make a selection. Applications will be evaluated on their own merit, independently and objectively. While the government does not intend to meet with Developers regarding revisions to their applications prior to any oral presentations, the Army may contact Developers to clarify certain aspects of their application or to correct clerical errors. The information submitted in your written proposal will be reviewed by the evaluation team prior to any oral presentation. This will allow the team members time to become familiar with your firm's experience, project approach, financial return expectations, and to generate questions that may be posed during the Developer's oral presentations. The Army reserves the right to form a basis for determining a competitive range before or after any oral presentations.

Oral presentations will be limited to 60 minutes. During your oral presentation, be prepared to provide information concerning any aspect of the written proposal submitted. At the conclusion of your oral presentation, plan on approximately 30-45 additional minutes to respond to questions.

You may use whatever media you choose in making your oral presentation. The Army will provide an overhead projector, LCD data projector, and laptop with CD-ROM. If you decide to use media other than what is provided, you must provide and set up the equipment yourself. Provide ten (10) complete sets of all overheads and any other handouts to your oral presentation at least one week in advance of the scheduled time for your oral presentation.

After the final evaluation of the applications, the Army will select the Developer whose application offers the **best overall value**. Selection will be based on an integrated assessment of the factors set forth in Section 3.0. Upon selection, the Army and the Developer will commence work, as outlined in this Notice of Availability to Lease, with the intent to enter into a leasing arrangement.

4.2 APPLICATION EVALUATION RATINGS. Each individual evaluation factor will be rated as indicated below. The evaluators will assign one of the following ratings to each factor:

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- 1) Exceptional Plus (E+): The offeror has addressed all of the elements in this factor in a manner that demonstrates superior added value above a satisfactory response for substantially all of the elements.
- 2) Exceptional (E): The offeror has addressed substantially all of the elements of this factor in a manner that demonstrates superior added value above a satisfactory response and has addressed substantially all of the remaining elements in this factor in a manner that demonstrates high added value above a satisfactory response.
- 3) Acceptable Plus (A+): The offeror has addressed many of the elements of this factor in a manner that demonstrates some added value above a satisfactory response and has addressed substantially all of the remaining elements in this factor in a manner that demonstrates a satisfactory response.
- 4) Acceptable (A): The offeror has addressed the majority of the elements in this factor in a satisfactory manner.
- 5) Unacceptable (U): The offeror has failed to address substantially all of the elements of this factor in a satisfactory manner or has simply failed to address substantially all of the elements in this factor.
- 6) Neutral: This rating will only be used to evaluate an offeror in the past performance evaluation factor. The offeror did not have a sufficient history that could be evaluated in a level of detail that allowed the evaluation team to draw a conclusion about the offeror's past performance

In addition, the evaluators will assign an overall rating to each proposal as indicated below:

- 1) Exceptional Plus (E+): The offeror has addressed all of the elements in all of the factors in a manner that demonstrates superior added value above a satisfactory response.
- 2) Exceptional (E): The offeror has addressed substantially all of the factors in a manner that demonstrates high added value above a satisfactory response and has addressed substantially all of the remaining factors in a manner that demonstrates added value above a satisfactory response.
- 3) Acceptable Plus (A+): The offeror has addressed many of the factors in a manner that demonstrates some added value above a satisfactory response and has addressed substantially all of the remaining factors in a manner that demonstrates a satisfactory response.
- 4) Acceptable (A): The offeror has addressed substantially all of the factors in a satisfactory manner.

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- 5) Unacceptable (U): The offeror has failed to address substantially all of the factors in a satisfactory manner or has simply failed to address substantially all of the factors.

The evaluators will justify the evaluation factor rating by drawing upon the strengths, weaknesses, and risks identified for each of the evaluation factors. In addition to the ratings above, a risk rating will be assigned to each of the individual factors. The purpose of this rating is to assess the level of risk associated with each offeror. The evaluators will assign one of the following ratings to each of the individual factors:

- 1) Low Risk: Any weaknesses identified by the evaluators in the experience, approach, capabilities, and/or past performance record of the developer have little potential to cause disruption to the planning and implementation phases. Normal contractor/government effort and monitoring will probably minimize any difficulties.
- 2) Moderate Risk: These are weaknesses identified by the evaluators in the experience, approach, capabilities, and/or past performance record of the offeror that can potentially cause disruption to the planning and implementation phases. Special contractor/government emphasis and close monitoring will probably minimize any difficulties.
- 3) High Risk: These are weaknesses identified by the evaluators in the experience, approach, capabilities, and/or past performance record of the developer that have the potential to cause significant disruption to the planning and implementation phases even with special contractor/government emphasis and close monitoring.

The evaluators will document the weaknesses and their potential impact on disruption to the planning and implementation phases of the installation specific projects to justify the contractor selection rating.

SECTION 5. ARRANGEMENTS FOR INSPECTION OF THE SITE

The former WBGHHD site may be inspected in conjunction with the April 1, 2004, Industry Forum. Reservations for the Industry Forum are required and must be made not later than 4:00pm EST March 19, 2004 by web registration at:
<https://www.asaie.army.mil/Public/Partnerships/OHP/ohp.htm>

Inquiries on leasing issues and questions of title will be addressed to:

U.S. Army Corps of Engineers
FORT WORTH DISTRICT
HYLA J. HEAD, CHIEF REAL ESTATE
P.O. Box 17300
Fort Worth, TX 76102-0300

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POC for Fort Bliss EUL: June A. Ahrens, Realty Specialist

FORT WORTH DISTRICT
ATTN: CESWF-RE-MD (Ahrens)
(817) 886-1106
Fax: (817) 886-6426
june.a.ahrens@swf02.usace.army.mil

POC for questions regarding location of Industry Forum and location of property to be leased:

Bill Tipton, Real Property Officer
FORT BLISS, TX
(915) 568-3399
Fax : (915) 568-7766
TiptonB@emh10.bliss.army.mil

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EXHIBIT A - Aerial Photo Map of WBGHHD

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EXHIBIT B - Map of Area

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EXHIBIT C – SAMPLE LEASE PROVISIONS

The following lease provisions are of major importance in any discussion of the lease of real property of the United States that is held in Army custody.

1. Other Laws, Regulations and Requirements

Developers should note that the National Environmental Policy Act (NEPA) and its requirements for an environmental assessment (EA) or an environmental impact statement (EIS) may be invoked. Additionally, Developers are responsible for being fully informed of, and complying with, the requirements of applicable federal and local government laws and regulations. Additionally, the Successful Developer shall be responsible for obtaining, at its own cost and expense, all requisite approvals, licenses and permits.

2. Developer's Research Obligations

A Developer is expected to be knowledgeable of all information, which is reasonably ascertainable concerning the size, character, quality, and quantity of surface and subsurface materials or obstacles on the project site, as well as the existing utilities on the site. This information is available from: (1) a visual inspection of the WBGHHD site; (2) utility companies serving the area; and (3) local land records. (The Army disclaims all responsibility and liability for the accuracy of any technical information that it provides.)

A Developer is also expected to have knowledge of the conditions affecting construction on the WBGHHD site which include, but are not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to, and during prosecution of the work, and community support for the proposed project.

3. Environmental Matters

The Army has not undertaken a comprehensive environmental investigation of the WBGHHD site and makes no representations about the presence or absence of contaminated material or other environmental conditions that may impact development. Interested Developers *may* request permission to perform their own due diligence environmental site assessment: (1) prior to proposal submission; (2) after proposal submission; or (3) after designation as the Selected Developer. Such due diligence site assessment and all associated costs shall be the sole responsibility of the Developer. Permission will be granted by the Army subject to the execution of a Right of Entry Agreement with standard insurance and indemnity provisions. A sample Right of Entry Agreement is available by calling (817) 886-1106.

The Army shall be provided, in a timely manner, a copy of all test results and reports addressing the environmental site investigation. If environmental contamination is found that requires a clean-up or remediation of the site under a governmental regulatory agency's review, the Developer may withdraw its proposal (including its Final Proposal) with no forfeiture of any Proposal Security. In the event that the due diligence environmental site assessment is performed after the designation of the Selected Developer, but prior to the execution of the Lease Agreement, the Selected Developer and the Army may negotiate the transaction based upon the

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levels of contaminated materials or other environmental conditions encountered which would substantially delay development or substantially increase the costs of excavation, removal or disposal of soil/materials, or the treatment of groundwater. If the parties cannot agree upon the resolution of these issues, the Selected Developer may withdraw its Final Proposal with no forfeiture of its Proposal Security, and the Army has the corresponding right to terminate the Selected Developer designation in accordance with **Section 9.J**, below.

4. Inspection of Accounting Records

The Successful Developer will be required to permit the Army, or any of its duly authorized representatives, at reasonable times and places, access to any books, documents, papers and records including certified financial statements of the Successful Developer which are directly pertinent to the Lease Agreement. The Army shall be permitted to audit, inspect, examine, copy and transcribe such books, documents, papers and records. The Successful Developer shall retain all records for three (3) years after submission of any statement required for determining any variable payment obligations under the Lease Agreement.

5. The Army's Tax Exempt Status

ARMY is a tax exempt governmental entity. Any taxes, assessments or impositions on the WBGHHD project or the real estate itself shall be the responsibility of the Successful Developer. In no event shall the Selected/Successful Developer assert, or attempt to assert, for its own benefit, an exemption or immunity available to the Army.

6. The Army's Indemnification Requirements

The Lease Agreement which is negotiated between ARMY and the Selected Developer will require the Successful Developer and its contractors, subcontractors and sub-tenants (if applicable), to indemnify and hold the Army, its officers, employees and agents, harmless from and against, all claims, liabilities, losses, demands, damages, penalties, costs, charges and expenses (including reasonable architect and attorneys' fees) which may be imposed upon, or incurred by, or asserted against the Army by reason of:

- (1) Any act or omission of the Successful Developer, or any of its contractors, subcontractors, subtenants or mortgagee, which causes the Army to be: Joined in, or (b) subjected to any claims, suits, administrative proceedings or similar controversies, solely because of the Army's fee ownership of the WBGHHD project site;
- (2) Any accident, occurrence, injury to, or death of, persons or loss of, or damage to, property, occurring on or about the WBGHHD site, or any part thereof, or the adjoining sidewalks, curbs, vaults and vault space, if any, streets or ways;
- (3) Any act, error or omission on the part of the Successful Developer or any of its contractors, subcontractors, agents, servants, employees, licensees, tenants or space tenants;
- (4) Damage to any Army improvement or Army facility or to any Army property adjoining the WBGHHD site; or
- (5) Any of the foregoing events except such claims, liabilities, losses, etc., which may be imposed upon, or incurred by, or asserted against the Army on account of the Army's sole negligence.

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Notwithstanding the foregoing, the Successful Developer's obligation to indemnify and hold the foregoing persons and entities harmless shall be limited solely to those events and occurrences that take place during the term of the Lease. The Successful Developer shall require the foregoing indemnification to be provided by each of its general construction contractors and major subcontractors, and additionally, in Lease transactions by its subtenants.

7. The Army's Insurance Requirements

The Lease Agreement, which is negotiated between the Army and the Selected Developer will require the Successful Developer, its contractors and subcontractors, to procure and maintain insurance coverage, in amounts determined by the Army, which includes, but is not limited to: (1) Commercial General Liability; (2) Worker's Compensation; (3) Builder's Risk (during construction only); (4) Automobile Liability; (5) Contractors' Pollution Liability; (6) Property (during operations only); (7) Boiler and Machinery (during operations only).

8. Assignment of Proposal, Change in Developer or Withdrawal of Developer

The Army considers the designation of the Selected Developer to be in the nature of a personal services contract. The Selected Developer is designated because of the skills, experience, knowledge and financial standing of the Developer and the Development Team. A Developer who submits a proposal in response to this Notice of Availability to Lease may withdraw, assign its proposal or change the composition of its Development Team only as follows:

a. Withdrawal of Proposal

At any time prior to the designation of the Selected Developer, a Developer may elect to withdraw from having the Army consider its proposal. Under such circumstances, the Army shall return the Proposal Security, if any, without interest.

b. Assignment of Proposal

At any time prior to the designation of the Selected Developer, a Developer may request the Army's approval to assign its proposal to another development entity. No assignment is binding prior to the Army's written approval. The Developer and its successor shall submit all documents required by the Army before the request will be considered. The Army is under no obligation to consider the request. If the Army refuses to grant approval, and the Developer does not want to proceed in accordance with its Final Proposal, the Army shall return any Proposal Security without interest. Any assignment may be subject to the requirement of a Guaranty.

c. Change in Composition of Developer or Development Team

1. Prior to submission of the Final Proposal, a Developer may change its composition or the composition of its Development Team provided written notice and documentation of the changes and the qualifications of any new entities are provided to the Army.
2. After submission of the Final Proposal, but prior to the designation of the Selected Developer, a Developer may change its composition or the composition of its Development Team only with the Army's prior written approval. If the Army refuses to grant approval of the change, and the Developer does not want to proceed in

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accordance with its Final Proposal, the Army shall return any Proposal Security without interest.

3. After designation of the Selected Developer, the Selected Developer may request the Army's approval to change its composition or the composition of its Development Team. If the Army refuses to grant approval of the change, and the Selected Developer does not want to proceed in accordance with its Final Proposal, the Army may terminate the Selected Developer designation, and any Proposal Security shall be retained by the Army. Any change may be subject to the requirement of a Guaranty.

d. Other Situations

An assignment or change in the composition of the Development Team which is not addressed above is at the sole discretion of the Army's Contracting Officer. For any such assignment or change to be effective, the Army's written approval is required. Any assignment occurring without the Army's prior written approval shall be voidable and have no effect, at the Army's sole discretion.

9. Termination of Designation of Selected Developer

The Army's Contracting Officer has the right, but not the obligation, to terminate the designation of the Selected Developer for any of the following reasons (in which case the Army may retain the Proposal Security, if any, except as stated otherwise):

- a. The Selected Developer fails to negotiate the final terms of the transaction after receipt of a thirty (30) day written notice from the Army.
- b. The Selected Developer fails to negotiate and execute the Lease Agreement after receipt of a thirty (30) day written notice from the Army.
- c. The Selected Developer or any individual or entity holding ownership in or comprising the Development Team declares bankruptcy.
- d. The ownership structure of the Selected Developer changes without the Army's prior written approval. Structural changes include altered percentages of ownership by any of the individuals or entities with ownership interest or a change in ownership of any entity holding an ownership interest in the Selected Developer.
- e. The Selected Developer assigns its designation or transfers its rights in the Lease Agreement without the Army's prior written approval. Alternatively, the Selected Developer requests the Army's approval of an assignment and the Army does not grant approval and the Selected Developer refuses to proceed in accordance with its Final Proposal.
- f. The Selected Developer or any other member of the Development Team is indicted
for, or convicted of, a felony.

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- g. The Selected Developer or any other member of the Development Team is found not
to have a satisfactory record of integrity and business ethics.
- h. The Selected Developer provided incorrect or incomplete information of significance
in any of its submissions to the Army, as determined solely by the Army's Contracting Officer.
- i. The Selected Developer does not comply with its Final Proposal or the terms of the
Lease Agreement negotiated by the parties.
- j. In accordance with **Section 3**, above, the Selected Developer conducts a due diligence environmental site assessment and modifies its Final Proposal in a manner which is unacceptable to the Army. If the Army elects to terminate the selection of the developer under such circumstances, the Army shall return any Proposal Security with interest that may have accrued.
- k. The Army determines that termination is in its best interest. Under such circumstances, the Army shall return any Proposal Security with interest that may have accrued.

11. Protest Policy

The policy and procedure for the administrative resolution of protests arising pursuant to this Notice of Availability to Lease are as follows:

- a. Only an Interested Party may submit a protest. An Interested Party is defined as a Developer who submitted a proposal pursuant to this Notice of Availability to Lease.
- b. Protests must be submitted no later than thirty (30) calendar days after the Army's designation of the Selected Developer. Any protest submitted subsequent to this time may be deemed by the Army's Contracting Officer to be untimely and denied on that basis unless the Contracting Officer concludes that the issue(s) raised by the protest involves fraud, gross abuse of the selection process, or otherwise indicates substantial prejudice of the integrity of the selection process.
- c. The Interested Party wishing to file a protest shall submit a written document with the Army's Contracting Officer, which contains the following:
 - 1. The name and address of the Interested Party;

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2. A description of the nature of the protest;
 3. The identification of the provision(s) of the Notice of Availability to Lease and/or applicable laws or regulations upon which the protest is based;
 4. A statement of the specific relief requested; and
 5. Any documents relevant to the protest.
- d. The Army's Contracting Officer shall carefully review the protest in consultation with the Army staff. At the discretion of the Contracting Officer, a conference may be held with the protesting party. The Contracting Officer shall have thirty (30) calendar days to render a written decision on the merits of the protest. A determination by the Contracting Officer that a protest is meritorious may result in: (a) a change in the terms, conditions or format of this Notice of Availability to Lease in the form of an amendment, (b) the rejection of a proposal, (c) the cancellation of this Notice of Availability to Lease, or (d) the termination of the designated Selected Developer.
- e. This Protest Policy is not applicable to actions taken by the Army in response to legal proceedings filed in the courts.